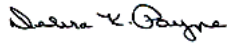
 <p>POLICIES AND PROCEDURES</p> <p>State of Tennessee Department of Intellectual and Developmental Disabilities</p>	Policy #: 10.2.7	Page 1 of 9
	Effective Date: November 4, 2014	
	Distribution: A	
Policy Type: Administrative	Supersedes: 10.2.7 (10/01/12)	
Approved by:  Debra K. Payne, Commissioner	Last Review or Revision: September 22, 2014	
Subject: TITLE VI COMPLIANCE		

- I. **AUTHORITY:** Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulations at 45 C.F.R. Part 84; Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 et seq., and its implementing regulations at 28 C.F.R. Part 35; Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) et seq., as amended; Title IX, Education Amendments of 1972 (Title 20 U.S.C. Sections 1681-1688) : Section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. 18116); Tennessee Code Annotated § 8-50-103 and Tennessee Code Annotated § 4-3-2702; Tennessee Code Annotated § 33-1-301, Tennessee Code Annotated § 33-1-302 and Tennessee Code Annotated § 33-1-305.

- II. **PURPOSE:** To establish procedures for compliance with Title VI of the Civil Rights Act of 1964 and other nondiscrimination laws within the Department of Intellectual and Developmental Disabilities (hereinafter “Department” or “DIDD”).

- III. **APPLICATION:** This policy applies to all DIDD employees and the employees of the Tennessee Council on Developmental Disabilities as well as all interns, pass-through entities, volunteers, contract employees, and vendors.

- IV. **DEFINITIONS:**
 - A. **Covered Entities** shall mean any program or agency that receives federal financial assistance from the Department of Health and Human Services (HHS) or is covered under Title II of the Americans with Disabilities Act as a program, service, or regulatory activity relating to the provision of health care or social services.

 - B. **Electronic Learning Management (ELM) System** shall mean software application for administration, documentation, tracking and reporting of training programs.

 - C. **Federal Financial Assistance (FFA)** shall mean assistance that non-federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance.

 - D. **Limited English Proficient (LEP)** shall mean people who do not speak English as their primary language, and who therefore have limited ability to read, speak, or understand the English language.

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- E. **Nondiscrimination Laws** shall mean laws that prohibit discrimination and require covered entities to provide individuals an equal opportunity to participate in a program activity, regardless of race, color, national origin, age, or disability. For the purpose of this policy, nondiscrimination laws shall include:
1. **Title VI of the Civil Rights Act of 1964**, as amended (42 USC § 2000d), prohibits discrimination on the basis of race, color, or national origin 45 CFR 80.
 2. **Section 504 of the Rehabilitation Act of 1973**, as amended (29 USC §794), prohibits discrimination against otherwise qualified individuals on the basis of disability for people who are enrolled in programs and activities receiving financial assistance from HHS 45 CFR 84.
 3. **Title IX of the Education Amendments of 1972**, as amended, (20 USC § 1681) prohibits discrimination on the basis of sex (gender) in Federally-Assisted Education Programs 45 CFR 86.
 4. **The Age Discrimination Act of 1975**, as amended (42 USC § 6101), prohibits discrimination on the basis of age for people enrolled in programs or services receiving HHS financial assistance 45 CFR 91.
 5. **Section 1557 of the Patient Protection and Affordable Care Act** (42 U.S.C. 18116), which provides that an individual shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the grounds prohibited under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (race, color, national origin), Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. (sex), the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq. (age), or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (disability), under any health program or activity, any part of which is receiving federal financial assistance, or under any program or activity that is administered by an Executive Agency or any entity established under Title I of the Affordable Care Act or its amendments.
 6. **Title II of the Americans with Disabilities Act**, Final Rule amending 28 CFR Part 35, prohibits discrimination on the basis of disability in state and local government services.
 7. **Section 508 of the Rehabilitation Act of 1973**, as amended, (29 USC § 794) prohibits discrimination on the basis of disability in electronic information and technology as they relate to programs and activities funded through HHS.
- F. **Pass-through Entity** shall mean a non-federal entity that provides a federal award to a subrecipient to carry out a federal program or service.
- G. **Recipient** shall mean a non-federal entity that receives and expends federal financial assistance directly from a federal awarding agency to carry out a federal program or service.
- H. **Subrecipient** shall mean a non-federal entity that receives and expends federal financial assistance from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal assistance directly from a federal agency.

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- I. **Vendor** shall mean a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a program. These goods or services may be for an organization's own use or for the use of beneficiaries of the federal program.

- V. **POLICY:** As a subrecipient of federal financial assistance, DIDD does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, disability, color, or national origin in the admission to, participation in or receipt of the services and benefits of any of its programs and activities, whether carried out by DIDD directly or through a pass-through entity, contractor or any other entity with whom DIDD arranges to carry out its programs and/or services.

This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Section 1557 of the Patient Protection and Affordable Care Act Section, 508 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and Title IX of the Education Amendments of 1972.

VI. **PROCEDURES:**

- A. All new employees shall receive training on Title VI of the Civil Rights Act of 1964 and other nondiscrimination laws prior to the completion of their probationary period. Managers and supervisors shall ensure that Title VI compliance and reporting responsibilities are discussed with all new employees.
- B. Chief Officers, Regional Directors and the DIDD Director of Staff and Provider Development shall ensure that all employees receive annual training on Title VI of the Civil Rights Act of 1964 (Title VI) and other nondiscrimination laws.
- C. Contents of Title VI and other nondiscrimination laws training shall include, at a minimum, the following:
 - 1. Overview of Title VI of the Civil Rights Act of 1964
 - a. Protected classes (race, color and national origin).
 - b. Nondiscrimination Laws.
 - 2. Definitions
 - a. Federal Financial Assistance.
 - b. Recipient, subrecipient (e.g. contractor/subcontractor/grantee), and beneficiary.
 - c. Disparate Treatment vs. Disparate Impact.
 - d. National Origin/Limited English Proficiency (LEP) Discrimination.
 - e. Policy and Procedures.
 - f. Nondiscrimination Policy Statement.
 - g. Complaint procedures.
 - h. National Origin/Limited English Proficiency (LEP) Policy.

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- i. Public notification of relevant programs and/or activities.
- j. Notice of right to file a complaint.
- k. Minority participation on planning boards and advisory bodies, if applicable.

3. DIDD Reporting Obligations

- a. Source of federal funding.
- b. Assurances signed by the department.
- c. Purpose of data collection and analysis.
- d. Filing of the Title VI Implementation Plan with state and/or federal entities.
- e. Subrecipient (Service Provider) Compliance.
 - 1) Compliance review.
 - 2) Pre/Post-award procedure.
 - 3) Compliance assessment/self-survey to be completed by subrecipients.
 - 4) Assurances and/or contractual terms signed by subrecipients.
 - 5) Procedures for noncompliance by subrecipients.
 - 6) Training requirements for subrecipients.
 - 7) Reporting obligations.
- f. For the purpose of recordkeeping, Title VI and Other Nondiscrimination Laws training shall be documented in an electronic learning management (ELM) system.
- g. Classroom or face-to-face training shall use sign-in logs indicating date(s) of training, location, and agenda. All classroom or face-to-face training shall be tracked electronically.

D. Title VI Compliance Coordination

- 1. DIDD Office of Civil Rights is responsible for monitoring and ensuring departmental compliance with Title VI and other nondiscrimination laws.
- 2. DIDD Regional Directors and Chief Officers shall nominate an employee to serve as the Title VI Coordinator for their respective region or facility. All nominations shall be reviewed and appointments made by the Commissioner.

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3. DIDD regional or facility Title VI Coordinator's duties and responsibilities may include, but are not limited to, the following:
 - a. Receiving and processing complaints relating to Title VI and other nondiscrimination laws.
 - b. Conducting Title VI investigations.
 - c. Conducting regional training pertaining to Title VI and other nondiscrimination laws.
 - d. Providing technical assistance to DIDD service providers.
 - e. Coordinating LEP language assistance.
 - f. Maintaining and reporting Title VI statistical data.

- E. The following practices are prohibited under Title VI of the Civil Rights Act of 1964:
 1. Denying any individual any service, opportunity, or other benefit for which he or she is otherwise qualified.
 2. Providing any individual with any service or other benefit which is different, or is provided in a different manner from that which is provided to others under the program.
 3. Subjecting any individual to segregated or separate treatment in any manner related to his or her receipt of service.
 4. Restricting any individual in any way in the enjoyment of services; or facilities; or any other advantage, privilege, or benefit provided to others under the program.
 5. Adopting methods of administration that would limit participation by any group of recipients or subject them to discrimination.
 6. Addressing an individual in a manner that denotes inferiority because of race, color, or national origin.
 7. Subjecting any individual to incidents of racial or ethnic harassment or the creation of a hostile racial or ethnic environment.

- F. Complaint/Investigation Process
 1. While the following procedures are directed at the processing of Title VI complaints and investigations, as a general proposition, all discrimination complaints and investigations will follow the same processing procedures.
 2. All DIDD employees have an ongoing obligation to report discrimination or harassment of individuals who receive DIDD services as soon as they become aware of the alleged discriminatory actions.

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3. A DIDD employee who believes that an individual receiving DIDD services has been harassed or experienced discrimination may file a complaint with the following:
 - a. A manager or supervisor (not just the employee's direct supervisor).
 - b. DIDD Director of Office of Civil Rights (OCR).
 - c. Regional/facility Human Resources (HR) Office.
 - d. DIDD Director of HR.
 - e. The complaint may be submitted via any form of written communication. The complaint shall include, at a minimum, the following:
 - 1) Name of individual.
 - 2) A description of the incident(s).
 - 3) The date(s), time(s), place(s).
 - 4) Any applicable witnesses.
- G. Prior to filing a Title VI complaint against a DIDD regional office, developmental center, or service provider, a potential complainant will be encouraged to review the regional office, developmental center or service provider's complaint process and use that process to have the complaint resolved.
- H. A complainant is not required by law to use an internal grievance or complaint process before filing a discrimination complaint. If a complainant uses an internal grievance process and also chooses to file a complaint, the complaint must be filed within sixty (60) days after the last act of the internal grievance process.
- I. Any family member, service recipient or legally authorized representative on behalf of such service recipient may file a complaint of discrimination on the basis of race, color, national origin, disability, or age. The individual or organization filing the complaint may not be a victim of the alleged discrimination, but may complain on behalf of another person or group.
- J. Anyone wishing to file a formal complaint of alleged discrimination against a DIDD employee, service provider, volunteer, or pass-through entity may file a complaint using DIDD Discrimination Complaint form. The complaint should include the following information:
 1. A general description of the person(s) or class of persons injured by the alleged discriminatory act(s) names of the injured person(s).
 2. The name and location of the service provider or developmental center that committed the alleged discriminatory act(s).

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3. A description of the alleged discriminatory act(s) in sufficient detail to enable DIDD to understand what occurred, when it occurred, and the basis for the alleged discrimination (e.g., race, color, national origin, disability, or age).
 4. The remedy or relief sought.
- K. Upon receiving a Title VI or nondiscrimination complaint, the regional or facility Title VI Coordinator will notify DIDD Director of Civil Rights within two (2) business days.
- L. The regional or facility Title VI Coordinator will acknowledge receipt of the complaint within fifteen (15) business days. The regional or facility Title VI Coordinator will review the complaint to determine whether DIDD has jurisdiction to investigate the complaint. The complaint must meet the following basic criteria to be accepted for Title VI investigation:
1. The complaint must allege discrimination on a basis prohibited (race, color, national origin) by Title VI of the Civil Rights Act of 1964.
 2. The complaint must allege that discrimination is occurring in a program or activity that receives financial assistance from DIDD.
 3. The subject matter (i.e., issues) addressed by the complaint must be covered by Title VI of the Civil Rights Act of 1964.
 4. The complaint must be timely filed, within 180 days of the alleged violation, unless the requirement is waived.
- M. If there is insufficient information to determine whether the complaint meets the aforementioned criteria, the complainant may be contacted to obtain additional information. The following are examples of items that will not constitute a complaint, unless the item contains a signed cover letter specifically asking DIDD to take action concerning the allegations:
1. An anonymous complaint.
 2. Inquiries seeking advice or information.
 3. Courtesy copies of court pleadings.
 4. Courtesy copies of complaints addressed to other local, state, or federal agencies.
 5. Newspaper articles.
 6. Courtesy copies of internal grievances.
 7. Oral complaints.
- N. If the complaint does not meet the prima facie case for discrimination, the complainant will be notified in writing. The complaint may be forwarded to DIDD Office of Civil Rights or Office of General Counsel for review.

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- O. A complaint alleging discrimination against a DIDD service provider or any entity of the DIDD may be filed with the following:
 - 1. DIDD Regional Title VI Coordinator.
 - 2. DIDD Director of Civil Rights.
 - 3. Commissioner of DIDD.
- P. A complaint may also be filed externally with:
 - 1. Bureau of TennCare.
 - 2. Tennessee Human Rights Commission.
 - 3. Department of Health and Human Services Office for Civil Rights, Region IV, in Atlanta, Georgia.
- Q. DIDD regional or facility Title VI Coordinator will review and/or investigate, when applicable, all complaints of alleged discrimination.
- R. This review and/or investigation will be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. A written decision on the complaint will be forwarded to the complainant no later than 45 days after its filing.
- S. It is the policy of DIDD to encourage the voluntary resolution of all complaints with the participation of all affected parties. Attempts will be made to resolve the complaint at the lowest level possible.
- T. If a complainant remains unsatisfied with the findings or the proposed remedial action, the complainant will still have time to file externally, with the Human Rights Commission or Department of Health and Human Services Office for Civil Rights, Region IV, in Atlanta, Georgia, within the stated time limit of 180 calendar days.
- U. Throughout the complaint process, it shall be the responsibility of the complainant and the Director of Civil Rights to ensure that DIDD's General Counsel has a complete record of all documents, proceedings, findings, appeals, and dispositions related to a complaint. The DIDD General Counsel and the Director of Civil Rights shall have responsibilities as repositories of such information, as well as, advisors to departmental authorities regarding complaints.
- V. If a state employee is found guilty of any discriminatory practice, the employee may be subject to disciplinary action in accordance with DIDD policy.

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W. Retaliation is prohibited. In accordance with Title VI of the Civil Rights Act of 1964 {45 C.F.R. Part 80.7(e)}, no DIDD personnel, service providers, interns, pass-through entities, volunteers, contract employees, or vendors shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, or because the individual has made a complaint, testified, assisted, or participated in any manner in a discrimination investigation, proceeding, or hearing.

VII. CQL STANDARDS: 1a,1d, 7d

VIII. REVISION HISTORY: September 22, 2014

IX. TENNCARE APPROVAL: N/A

X. ATTACHMENTS:

A. Documentation of Complaint